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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,010	01/16/2002	Kulvir Singh Bhogal	AUS920010772US1	6349
45440	7590	12/21/2004		
IBM CORPORATION (SS) C/O STREETS & STEELE 13831 NORTHWEST FREEWAY, SUITE 355 HOUSTON, TX 77040			EXAMINER PATEL, NITIN C	
			ART UNIT 2116	PAPER NUMBER

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,010

Applicant(s)

BHOGAL ET AL.

Examiner

Nitin C. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-18, 21-29, 32 and 33 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 19, 20, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/16/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1 – 33 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 7, 10, 12 – 18, 21, 23 – 29, and 32 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Altare et al. [hereinafter as Altare], US Patent 6,791,481 B2.

4. As to claims 1, and 12, Altare discloses a method of operating [simultaneous CD read/MP3-encode/HDD-write, or HD-read/MP3-decode to play] an optical disk player [CD-ROM and MP3 recorder-player, fig. 1] comprising:

- a. receiving an instruction [by selecting menu selection with input device] to read audio, video or audio/video data [digital data] from an optical disk [performed by CD-ROM reader] within the optical disk player [col. 10, lines 10 – 15], wherein the data is to be provided to an output means [output device] at a known playback rate [by CODEC][col. 9, lines 1 – 46, col. 10, lines 10 – 10 – 30];

- b. reading the data [by reader] from the optical disk at a rate that is greater than [very fast] the known playback rate [normal play speed or real time play rate] [col.1, lines 46 – 54, col. 7, lines 18 – 20, col. 8, lines 61 – 64, col. 11, lines 53 – 67];

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c. storing the data on a hard disk [HDD] as the data is being read [concurrently][col. 3, lines 31 – 38, col. 6, lines 6 – 46, col. 8, lines 29 – 38];

d. providing [producing] the data [audible sound] to the output means [output device] at the known playback rate [real time play rate] while the data is being stored;

e. turning off [shut down] the optical disk player as soon as the data has been read and stored [col. 4, lines 48 – 67]; and then

f. continuing to provide the data to the output means [output device] at the known playback rate [real time play rate] by retrieving the data stored on the hard disk [HDD] [col. 5, lines 7 – 51, col. 8, lines 23 – 67, col. 9 – 14].

5. As to claim 23, Altare discloses an apparatus [CD-ROM and MP3 recorder-player, fig. 1] comprising:

a. means for receiving [input device] an instruction [by selecting menu selection with input device] to read audio, video or audio/video data [digital data] from an optical disk [performed by CD-ROM reader] within the optical disk player [col. 10, lines 10 – 15], wherein the data is to be provided to an output means [output device] at a known playback rate [by CODEC][col. 9, lines 1 – 46, col. 10, lines 10 – 10 – 30];

b. means for reading [reader] the data from the optical disk at a rate that is greater than [very fast] the known playback rate [normal play speed or real time play rate] [col. 1, lines 46 – 54, col. 7, lines 18 – 20, col. 8, lines 61 – 64, col. 11, lines 53 – 67];

c. means for storing the data on a hard disk [HDD] as the data is being read [concurrently][col. 3, lines 31 – 38, col. 6, lines 6 – 46, col. 8, lines 29 – 38];

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d. means [CODEC] for providing [producing] the data [audible sound] to the output means [output device] at the known playback rate [real time play rate] while the data is being stored;

e. means for [power controller] for turning off [shut down] the optical disk player as soon as the data has been read and stored [col. 4, lines 48 – 67]; and then

f. means [31, MPU] for continuing to provide the data to the output means [output device] at the known playback rate [real time play rate] by retrieving [from HDD to buffer memory] the data stored on the hard disk [HDD] [col. 5; lines 7 – 51, col. 8, lines 23 – 67, col. 11, lines 25 – 52, col. 9 – 14].

6. As to claims 2, 13, and 24, Altare discloses the turning off the optical disk player, which includes turning off a spin motor [On/Off control of rotating device] within the optical disk player [col. 4, lines 47 – 55, col. 9, lines 55 – 61].

7. As to claims 3, 14, and 25, Altare discloses that the data is selected from all the data on the optical disk or a track of the data on the optical disk, wherein the beginning of each track is identified in a table of contents for the optical disk [col. 9, lines 1 – 44, col. 11, lines 55 – 67].

8. As to claims 4, 15, and 26, Altare discloses the output means [output devices] is selected from a speaker, a set of speakers, a video display or combinations thereof [col. 8, lines 57 – 60, col. 10, lines 19 – 27].

9. As to claims 5, 16, and 27, Altare discloses converting [encoding and decoding] the data to a different computer readable format [MP3] before storing the data on the hard disk [HDD] [col. 12, lines 5 – 67].

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10. As to claims 6, 17, and 28, Altare discloses the format is selection from MP3, WMA, WAV, Ogg, VQF Or AAC [MP3, Wave][col. 10, lines 1 – 5].

11. As to claims 7, 18, and 29, Altare discloses any format [MP3 compressed format] that reduces the memory space required to store [compressed MP3 inherently reduces the storage space required] the data on the hard disk [col. 6, lines 10 – 46, col. 10, lines 54 - 60].

12. As to claims 10, 21, and 32, Altare discloses main menu/sub-menu which teaches searching the hard disk for presence of the data; and playing [sub-menu shows series of alternatives: PLAY] the data from hard disk without re-reading the optical disk [playing the data from the hard disk] [col. 9, lines 1 – 35].

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 11, 22, and 33, are rejected under 35 U.S.C. 103(a) as being unpatentable over Altare et al. [hereinafter as Altare], US Patent 6,791,481 B2 as applied to claims 1, 12, and 23, above, and further in view of Ohnishi, US 2002/0071652 A1.

15. As to claims 11, 22, and 33, Altare discloses system and a method of operating [simultaneous CD read/MP3-encode/HDD-write, or HD-read/MP3-decode to play] an optical disk player [CD-ROM and MP3 recorder-player, fig. 1] comprising: receiving an instruction [by selecting menu selection with input device] to read audio, video or audio/video data [digital data] from an optical disk [performed by CD-ROM reader] within the optical disk player [col. 10, lines

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10 – 15], wherein the data is to be provided to an output means [output device] at a known playback rate [by CODEC][col. 9, lines 1 – 46, col. 10, lines 10 – 10 – 30]; reading the data [by reader] from the optical disk at a rate that is greater than [very fast] the known playback rate [normal play speed or real time play rate] [col.1, lines 46 – 54, col. 7, lines 18 – 20, col. 8, lines 61 – 64, col. 11, lines 53 – 67]; storing the data on a hard disk [HDD] as the data is being read [concurrently][col. 3, lines 31 – 38, col. 6, lines 6 – 46, col. 8, lines 29 – 38]; providing [producing] the data [audible sound] to the output means [output device] at the known playback rate [real time play rate] while the data is being stored; turning off [shut down] the optical disk player as soon as the data has been read and stored [col. 4, lines 48 – 67]; and then continuing to provide the data to the output means [output device] at the known playback rate [real time play rate] by retrieving the data stored on the hard disk [HDD] [col. 5, lines 7 – 51, col. 8, lines 23 – 67, col. 9 – 14].

However, Altare discloses delete functionality in a main menu to delete selected items but does not teach to erase file automatically from the hard disk when it is not played for a designated set period of time. In summary, he does not teach automatically erase file stored in hard disk when it is not played for a designated period of time.

Ohnishi teaches reproducing apparatus and means for reproducing data from a recording medium [105, storage unit] with encoding and decoding of image and audio data [MPEG-2] and specifically automatic deletion of unnecessary data files which are unused for predetermined period of time [unused time equal or longer than 3 minutes][para 0076, on page 4].

It would have been obvious to one of ordinary skill in art, having the teachings of Altare and Ohnishi before him at the time of invention was made, to modify a combination CD-ROM

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and MP3 recorder/player [fig. 1] and a method of simultaneous CD read/MP3-encode/HDD-write, or HD-read/MP3-decode to play as disclosed by Altare to include automatically deleting the files which are not used for a predetermined period of time as taught by Ohnishi in order to utilize the recording area of such unnecessary or unused data files as recordable area and to achieve efficient recording on the recording medium [para 0057, 0058 on page 3].

16. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

17. **Prior Art not relied upon:**

Please refer to the references listed in attached PTO-892, which, are not relied upon for claim rejection since these references are relevant to the claimed invention.

Allowable Subject Matter

18. Claims 8 – 9, 19 – 20, and 30 – 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 571-272-3675. The examiner can normally be reached on 7:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nitin C. Patel
December 14, 2004


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